IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE TWENTY EIGHTH DAY OF SEPTEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE MS JUSTICE G.ROHINI

WRIT PETITION NO : 13715 of 2004

Between:

1 Kovvuri Trinadha Reddy, S/o Satyanarayana Reddy,
R/o Balabhadrapuram Village, Biccavole Mandal, East Godavari District
2 Kovvur Saibaba Reddy, S/o Trinadha Reddy,
R/o Balabharapuram Village, Biccavole Mandal, East Godavari District

..... PETITIONERS

AND

1 The Andhra Pradesh Transmission Corporation Ltd. Rep.by the Chairman-cum-managing Director, Vidyut Soudha, Somajiguda, Hyderabad
2 The Superintending Engineer, 400 KV Lines, AP TRANSCO, Near Ladies Club, Prakashnagar, Rajahmundry (PO) East Godavari District

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue an Order, Writ, or direction, more appropriately one in the nature of Writ of Mandamus under Art.226 of Constitution of India, by directing the respondents their subordinate officials, men, agents, representatives, assigns etc. by restraining them from constructing High Tension 400 K.V.Towers, and drawing High Tension over head lines on the lands in Survey Nos.195/3, 198, covering Ac.4.681/2 cents of dry land belonging to the 1st petitioner and lands in Survey Nos.186 and 188 covering an extent of Ac.9.60 cents of land belonging to the 2nd petitioner, situated in Kapavaram Village, Biccarole Mandal, East godvari District, till the final disposal of the main Writ Petition in the interest of justice, otherwise, the petitioners will suffer from damage and loss

Counsel for the Petitioner: MR.P.NARASIMHA RAO

Counsel for the Respondent No.: MRS.M.VINOBHA DEVI (SC FOR APTRANSCO)

The Court made the following :

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ORAL ORDER :

This writ petition is filed seeking a direction restraining the respondents from constructing High Tension 400 KV Towers and drawing High Tension Overhead Lines on the lands in Sy.Nos.195/3, 198 covering Ac.4.68 ½ cents of dry land belonging to the 1st petitioner and lands in Sy.Nos.186 and 188 covering an extent of AC.9.60 cents of land belonging to the 2nd petitioner situated in Kapavaram village, Biccavole Mandal, East Godavari District as arbitrary and illegal.

The petitioners claim that the lands in question are all agricultural lands and if the high tension towers are erected and the lines are laid in addition to the already existing towers and lines, the same would cause irreparable loss and damage to their lands. It is contended that the respondents are not entitled to erect the high tension towers or to lay the overhead lines without notice to the petitioners and without seeking their consent. Hence, this writ petition.

I have heard the learned Counsel for the petitioners and the learned Standing Counsel appearing for the respondents.

This Court in ***Bhaskara Housing (P) Ltd., Hyderabad Vs. APSEB, Hyderabad*** while considering a similar issue held that a cumulative reading of provisions of sub-section (1) of Section 42 of the Electricity (Supply) Act, 1948 with that of proviso make it apparently clear that if the sanctioned scheme provides for any of the things contemplated under Sections 12 to 16, 18 and 19 of the Indian Electricity Act, 1910, the officers of the Board can exercise similar powers conferred upon the authorities of the Telegraph Department under Part-III of the Indian Telegraph Act, 1885.

In ***H. Bhadur Singh Vs. A.P.S.E.B.*** also the power of the Electricity Board to erect poles for the purpose of transmission lines without acquiring the land has been upheld by this Court.

The learned Standing Counsel appearing for the respondents produced a copy of the Gazette Notification dated 22-10-1996 wherein a notification under Section 29(2) of the Electricity (Supply) Act, 1948 has been published notifying that the erstwhile A.P. State Electricity Board proposes to augment the transmission scheme with associated works during 1997-2002 to evacuate the power expected to be generated by the independent producers at Vizag T.P.S. by HNPCL, Simhadri T.P.S. and to meet the anticipated growth of load and to improve the voltage profile. Since the lands claimed to be in occupation of the petitioners are covered under the said scheme, the learned Standing Counsel submits that the respondents cannot be prevented from proceeding with the erection of Towers and laying electric lines. The learned Standing Counsel also produced the copies of publication of the said notification in the local dailies.

In the light of the said sanctioned scheme, which was already published in the gazette as well as in the local dailies, I do not see any illegality or irregularity in the action of the respondents in proposing to lay the electric supply lines through the lands in question. Since the respondents are empowered to invoke the powers under Part-III of the Indian Telegraph Act, 1885 prior consent of the petitioners is also not necessary.

For the aforesaid reasons, the relief as prayed for cannot be granted. However, it is made clear that in the process of erecting high tension towers or laying overhead lines if any one of the structures or trees standing on the lands in question is effected, the petitioners shall be paid compensation in accordance with law.

With the above observations, the Writ Petition is disposed of. No costs.

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28th September, 2004.

Klp

To

1 The Chairman-cum-managing Director,Andhra Pradesh Transmission Corporation Ltd. Vidyut Soudha, Somajiguda, Hyderabad
2 The Superintending Engineer, 400 KV Lines, AP TRANSCO, Near Ladies Club, Prakashnagar, Rajahmundry (PO) East Godavari District

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